

The Commonwealth of Massachusetts

**DEPARTMENT OF
TELECOMMUNICATIONS AND ENERGY**

MEMORANDUM

TO: Parties to D.T.E. 99-xx
Petition for Arbitration of an Interconnection Agreement between _____ and
New England Telephone and Telegraph Company d/b/a Bell Atlantic-
Massachusetts

FROM: _____, Arbitrator

DATE: _____

RE: Notice of Appointment of Arbitrator; Procedural Schedule; Ground Rules

CC: Mary Cottrell, Secretary

I. Appointment of Arbitrator

The Department of Telecommunications and Energy ("Department") has received your Petition for Arbitration, and has appointed _____ as Arbitrator in this matter. The Arbitrator may be contacted for questions at (617) 305-xxxx. The Department has assigned _____ as Telecommunications analyst to provide technical assistance in this matter.

II. Arbitration Schedule

Below is a schedule for your arbitration proceeding. The schedule includes time for a response from the non-petitioning party to the negotiation, and for continuing negotiations between the parties. The schedule also includes dates for a formal arbitration proceeding. These dates are set to allow the Arbitrator to conduct an efficient and fair arbitration of all issues that can not be resolved by the parties themselves. The standardized dates are based on a petitioner filing a Petition for Arbitration on the last allowable day (see 47 U.S.C. § 252(b)(1)). The Arbitrator may institute an expedited schedule where the nature of the dispute allows for faster resolution (e.g., where there are few issues in dispute).

The technical session and pre-hearing conference will be off-the-record, and will be attended by the Arbitrator and technical staff from the Department. The purpose of the technical session is to

Arbitration Procedures and Ground Rules

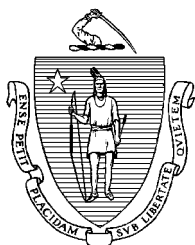
allow staff and participants an opportunity to gain a better understanding of technical issues in this arbitration, and perhaps resolve certain technical issues. The purpose of the pre-hearing conference is to complete scheduling, discuss outstanding procedural matters, and clarify which issues need to be decided in the arbitration. The parties are to file jointly the stipulation of issues resolved. The summary of issues to be resolved should identify the factual and legal issues which require determination. The goal of each of these steps is to aid the parties to narrow and focus the scope of the arbitration.

ARBITRATION SCHEDULE

Request for negotiation received by ILEC	day 1	_____
Petition for arbitration filed with Department	days 135-160	_____
A. <u>Negotiation period</u> (40 days)	days 160-200	_____
Response to petition for arbitration	day 185	_____
Technical session/pre-hearing conference	day 190	_____
B. <u>Arbitration Period</u> (70 days)	days 200-270	_____
Parties file first Stipulation of issues resolved/ Summary of issues to be resolved	day 200	_____
Prefiled testimony to be filed	day 200	_____
<u>Discovery Period</u> (15 days)	days 200-215	_____
Discovery Complete	day 215	_____
Parties file second Stipulation of issues resolved/ Summary of issues to be resolved	day 215	_____
<u>Arbitration Hearing</u>	day 225	_____
<u>Briefing</u>	initial day 235	_____
	reply day 240	_____
<u>Department Order</u>	day 270	_____

III. Ground Rules

Attached to this memorandum are ground rules for this arbitration. The purpose of the ground rules is to ensure the efficient conduct of this arbitration. Any request for an exemption from the ground rules must be made to the Arbitrator.



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Interconnection Agreement between _____
and New England Telephone and Telegraph
Company d/b/a Bell Atlantic-Massachusetts

D.T.E. 99-XX

ARBITRATION GROUND RULES

The Arbitrator establishes these ground rules to ensure the efficient conduct of this arbitration. The ground rules may be modified at the discretion of the Arbitrator.

1. Communications Between the Parties

Where information requests are sent to a party by means of facsimile transmission ("FAX") (see ground rule number 2), the FAX must be accompanied by telephone notification of the transmission. Failure to make prompt telephone notification may affect the timing of the response to the information request.

The Arbitrator may communicate with the parties via email, with paper to follow sent by U.S. mail.

2. Exchange of Materials

The parties shall make arrangements for the expeditious exchange of materials, particularly discovery material, through the use of hand delivery, FAX, or other speedy means of delivery. Unless otherwise not feasible, the use of mail delivery should be avoided as the sole method of exchange of discovery material. Where material is delivered by means of FAX, a follow-up copy of the material must also be delivered (use of mail delivery may be appropriate).

3. Production of Relevant Documents (Discovery)

Parties are required to cooperate in the exchange of information concerning this arbitration. Parties must first attempt resolution of any discovery dispute before coming to the Arbitrator for assistance.

Arbitration Procedures and Ground Rules

Responses to information requests (discovery) will not be part of the record unless marked and admitted into evidence.

Parties shall make a good faith effort to provide responses to information requests within 10 calendar days of receipt of the request, unless otherwise indicated. Where the computed response date is a Saturday, Sunday, or legal holiday, the response shall be due on the next following Department business day. This time for responses to information requests shall not apply where the established procedural schedule sets a different time.

For purposes of discovery, a document shall be deemed to include writings, drawings, graphs, charts, photographs, phono-records, and other data compilations from which data can be obtained, or translated, if necessary, by the respondent through detection devices into reasonably usable form.

4. Record Requests

Responses to record requests are written substitutes to oral answers where fault of memory or complexity of subject precludes a responsive answer by the witness in the hearing. As such, they are part of the record and the evidence, unless challenged as unresponsive and expunged in whole or part. Record requests shall not be used as a substitute for discovery or as a substitute for re-direct examination.

The ordinary time for response will be the fifth Department working day following the day on which the request is made.

Objections to record requests shall be made at the time the request is made, and in no event later than the end of the next Department working day.

5. Protected Material

Where information or material is sought that is considered proprietary or protected by one party, the parties should discuss the use of a non-disclosure agreement before coming to the Arbitrator for protection or compelled submission.

The Arbitrator will make a reasonable effort to extend protection where appropriate within the requirements of the law and in consideration of the policy interests regarding public access. A party requesting proprietary treatment must submit its request by motion and state the reasons therefore. The party seeking such treatment has the burden to demonstrate that the materials should be afforded the treatment requested in light of the presumption that such information is a public record (see M.G.L. Chapter 25, sec. 5D).

Arbitration Procedures and Ground Rules

6. Out-of-state Citations

The parties are to provide a copy of any out-of-state document on which the parties rely. The out-of-state document should be included with any filing which cites to that document.

7. Exhibits

a. Offering of Exhibits

At the arbitration hearing, the proponent of an exhibit must offer the Arbitrator three copies of the proposed exhibit (standard three-hole punch). Nonconforming documents will not be marked. Where material exceeding 25 pages is offered for marking and such material is already in the possession of all parties (e.g., information request responses), the proponent may, no later than 9:00 a.m. on the day the material is to be offered for marking, inform all parties and the Department's Telecommunications Division of the intended use of such material. Nonetheless, the proponent of any such document must provide the Arbitrator with a punched copy for marking.

If only a part of a document is offered for marking and another party wishes to use the omitted part(s) in questioning or on brief, then that party must enter the missing part(s) into the record.

Before the close of hearings, each party that offers exhibits shall submit a listing for those exhibits that presents (1) the exhibit number and (2) a description of the exhibit.

b. Late Filed Exhibits

Exhibits offered after the close of the hearings, if objected to by any party, labor under a heavy burden of untimeliness, for they would not be subject to cross-examination or rebuttal. Late filed exhibits must be accompanied by a motion to reopen the record and supported by appropriate affidavits. Only for good cause shown, in the face of an objection, will such exhibits be marked and admitted into evidence.

c. Exhibit Format

Any exhibit offered in this proceeding must contain an internally consistent and usable form of referencing. While most documents that are offered as exhibits have pre-numbered pages, some offered exhibits (especially those exhibits consisting of excerpts from more than one document or consisting of a compilation of notes) have pages that are not numbered or are not consistently numbered.

Documents of three pages or more without a preexisting referencing system must be marked with consecutive page numbers before the document is offered as an exhibit or

Arbitration Procedures and Ground Rules

before it is otherwise distributed for use in the hearing. Where it is necessary to supply page numbers for an exhibit, the proponent of the exhibit should add the numbers in some way that differentiates the additions from the preexisting text and should identify his method of addition on the record upon presentation for marking.

Documents without an acceptable referencing system will not be marked for identification and may not be used at the hearing.

8. Filing Documents with the Department

a. Format of Document Filings

All discovery and record request documents filed with the Department and all documents offered as exhibits shall be accurately punched to fit a standard three-hole binder. All documents shall be accompanied by a cover letter describing the filing and noting the distribution of copies.

Responses to information and record requests shall contain the following information: (1) set and question number, (2) recitation of request, and (3) identity of person who will support the response.

b. Number of Copies

The Department requires copies to be filed in the following numbers:

Prefiled Testimony - 1 original and [] copies

Information Requests and Responses - 1 original and [] copies

Responses to Record Requests - 1 original and [] copies

Bulk Responses (100 pages or more) - 1 original and 1 copy

Pleadings, Briefs, Motions, Memoranda, Stipulations - 1 original and [] copies

c. Address of Filings

The original of all filings must be filed with Mary Cottrell, Secretary of the Department. Copies of a filing are to be submitted to: _____, Arbitrator, _____, Director, Telecommunications Division, and _____, Telecommunications Analyst.

9. Hearing Arrangements

Evidentiary hearings will be conducted at the offices of the Department at 100 Cambridge Street, Boston, Massachusetts. These hearings will begin each day at 10:00 a.m., according to a schedule to be established by the Arbitrator.

Arbitration Procedures and Ground Rules

Adjustments to the stated hearing arrangements may be made at the discretion of the Arbitrator.

Date

Arbitrator

cc: Mary Cottrell, Secretary
_____, Assistant General Counsel
_____, Director, Telecommunications Division
Staff As Assigned
Service List